tions previously decided in the leading case of *Hatch* v. *Dana*, 101 U. S. 205, and in full accord therewith. In brief it decides that a judgment creditor who has had an execution returned unsatisfied against a street railroad company may maintain an action against its stockholders to recover, for the benefit of all creditors who may desire to be made parties, the amount due upon unpaid subscriptions for stock. The judgment and execution against the corporation returned unsatisfied is conclusive proof that the creditor has exhausted his legal remedy against the corporation, and no evidence is admissible to rebut the presumption. Further, said judgment, in the absence of fraud or collusion between the corporation and the plaintiff, is conclusive against the company and its stockholders as to the indebtedness upon which it was based, and hence evidence that said indebtedness arose upon a contract *ultra vires* is inadmissible. Stockholders' liability is several, and consequently it is unnecessary to make them all defendants ; nor is evidence admissible to show that the legal holder of stock on the corporation's books is in fact trustee or pledgee, and not the real equitable owner, and as such legal holder he is alone liable for unpaid subscriptions.

Taxation — National Bank Stock — Deduction of Indebtedness. — Upon a re-hearing in the case of *Bressler* v. *Wayne County*, 49 N. W. Rep. 787, the Supreme Court of Nebraska reversed its former decision that the owner of national bank stock, having no other moneyed capital, could deduct in the assessment and taxation of such shares his *bona fide* debts. The court reviewed numerous decisions involving the point in question, rendered by the U. S. Supreme Court, among them being *People* v. *Weaver*, 100 U. S. 539, *Pelham* v. *Bank*, 101 U. S. 143, and *Bank* v. *City of N. Y.*, 121 U. S. 138, the latter being cited at length, they being to the effect that "any method of assessment of taxes which prohibits the owner of national bank shares, who owns no other credits or 'moneyed capital,' from deducting his *bona fide* indebtedness from the value of such shares, and permits the deduction of such debts in the assessment of like property, similarly situated, conflicts with the act of Congress." The court says: "We reach the conclusion that in this State in the assessment of shares of national bank stock, the owners thereof are not entitled to deduct their *bona fide* indebtedness from the value of such shares of stock."

Mortgage — Subrogation. — *Spaulding* v. *Harvey*, 28 N. E. Rep. 323 (Ind.). Defendant was the holder of a mortgage against one

Lockwood, who at the time was under guardianship, being of unsound mind. Defendant, however, being unaware of the incapacity of his mortgagor and acting in entire good faith, in order to protect his mortgage had paid off a judgment debt which the sheriff was proceeding to satisfy by sale of the lands. On a suit to foreclose the mortgage it was declared void, but the Supreme Court held that he was not a mere volunteer in regard to the judgment which he paid, and, therefore, was entitled to be subrogated to the rights of the judgment creditor. They say it is not necessary that the judgment debtor should have been insolvent, and the mortgaged land the only property against which the judgment could have been collected, to entitle one to the right of subrogation; the right depends upon the circumstances attending the payment of the debt to which the security is an incident. The validity of the mortgage is not essential, for the right is not founded upon contract, either express or implied, but upon principles of equity and justice intended to afford protection to a meritorious creditor, and prevent the sweeping away of the fund from which in good conscience he ought to be paid.

Surface Waters—Obstruction of Flow.—Schnitzuis v. *Bailey*, 22 Atl. Rep. 732. A mandatory injunction will issue to compel an adjoining proprietor to remove any obstruction placed on his land to prevent water from flowing thereon, where such water, whether coming from springs, rains or melting snows, has flowed over the land in a well-defined channel for a period of time so long that the memory of man runneth not to the contrary; nor does it matter whether the channel be natural or artificial. According to the authorities it is good policy for courts to encourage the cultivation of the soil for agriculture and trade purposes. If the farmer can improve his land by changing the water-course thereon which passes from his land to and upon lands of lower proprietors, without substantial injury to such lower proprietors, he may do so. To this extent he may increase the volume or velocity thereof by surface or under drainage. The lower proprietors have no right to complain, unless they can show material injury. The same rules apply to additional drains, which have rendered productive, land formerly too wet or spongy to be available.

Conflict of laws—Usury.—Staples v. *Nott*, 28 N. E. Rep. 515 (N. Y.). Defendant was indorser of a note made in favor of the plaintiff pursuant to an agreement made in Washington, D. C. According to that agreement the note was given to secure an